

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	CASE NO. 23CR00469
)	
Plaintiff,)	Judge Pamela Barker
)	
-vs-)	
)	
CLARENCE PAYNE)	<u>DEFENDANT CLARENCE</u>
)	<u>PAYNE’S TRIAL BRIEF</u>
Defendant.)	

The Defendant, Clarence Payne, by and through its counsel, James J. McDonnell, respectfully submits the following trial brief in accordance with this Court’s Trial Order (R. 17).

1. CONTROLLING LAW

The Defendant agrees with the Controlling Law submitted by the Government.

2. ANTICIPATED EVIDENTIARY AND LEGAL ISSUES

A. STATEMENT OF FACTS

As it relates to the August 17, 2023 incident, Defendant submits that the Government will be unable to prove that he possessed a gun. The Defendant also contends that the Defendant did not know that he handed Mr. Pearl a scale.

As it relates to August 30, 2023, the Defendant will acknowledge that the drugs found were his. The Defendant admitted this fact in court. (See Stipulated Transcript of July 23, 2024 Court hearing).

Mr. Payne intends to call Mr. Pearl as a witness who will contradict the testimony of the U.C. witness on August 17, 2023.

B. RES GESTAE AND RULE 404(b) EVIDENCE

Mr. Payne states that any 404(b) evidence presented by the Government is outweighed by the prejudicial effect it will have on Clarence Payne. The acts of Mr. Pearl are independent of the acts of Clarence Payne.

C. VIDEO, AUDIO AND TRANSCRIPTS

All of this evidence has been presented to defense and as such there is no objection.

D. HEARSAY

Defense contends that any statement by a C.I., U.C. or Mr. Pearl is hearsay, unless they appear in court.

E. SELF-AUTHENTICATING COPIES OF PUBLIC RECORDS

All of these records have been provided to Mr. Payne.

F. EXPERT TESTIMONY

All of this information has been provided to Mr. Payne.

3. TRIAL DOCUMENTS

A. STIPULATIONS

Defendant has signed two stipulations.

B. PROPOSED JURY INSTRUCTIONS

The United States and Defendant have reviewed and agreed to its proposed jury instructions. They respectfully request that the Court submit to the jury the proposal instructions filed under (R. 89).

C. PROPOSED *VOIR DIRE* QUESTIONS

The Defendant respectfully requests that the Court direct the proposed questions filed under (R. 88) to the jury panel during *voir dire* examination.

D. PRELIMINARY STATEMENT

The United States and Defendant have reviewed and agreed to a joint preliminary statement. They respectfully request that the Court use the proposed preliminary statement filed under (R. 87).

E. WITNESS AND EXHIBIT LISTS

The Defendant has filed its anticipated Witness List contemporaneously with this filing under (R. 91).

4. COURT ROOM PROCEDURE

A. ESTIMATED LENGTH OF TRIAL

Defense expects its case to last 3-4 hours.

Respectfully submitted,

/s/James J. McDonnell
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CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of July 2025 a copy of the foregoing *Defendant's Trial Brief* was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/James J. McDonnell

James J. McDonnell, Esq. (0005802)

Attorney for Defendant, Clarence Payne